APPEAL NO. 041767
FILED AUGUST 25, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq*. (1989 Act). A contested case hearing was held on June 25, 2004. The hearing officer determined that the respondent's (claimant herein) compensable injury of _____, did extend to include a cervical spine injury but did not extend to include a left elbow injury. The appellant (carrier herein) filed a request for review arguing that the determination that the compensable injury included a cervical spine injury was contrary to the evidence. The carrier also requested that Finding of Fact No. 4 be reformed to conform to the evidence. The claimant filed a response to the carrier's request for review, urging affirmance.

DECISION

Affirmed as reformed.

We reform a factual finding of the hearing officer to correct a typographical error. Finding sufficient evidence to support the decision of the hearing officer and no reversible error in the record, we affirm the decision and order of the hearing officer, as reformed.

We have held that the question of extent of injury is a question of fact for the hearing officer. Texas Workers' Compensation Commission Appeal No. 93613, decided August 24, 1993. Section 410.165(a) provides that the hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of the weight and credibility that is to be given to the evidence. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701, 702 (Tex. Civ. App.-Amarillo 1974, no writ). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286, 290 (Tex. App.-Houston [14th Dist.] 1984, no writ). The trier of fact may believe all, part, or none of the testimony of any witness. Taylor v. Lewis, 553 S.W.2d 153, 161 (Tex. Civ. App.-Amarillo 1977, writ ref'd n.r.e.); Aetna Insurance Co. v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). An appeals-level body is not a fact finder and does not normally pass upon the credibility of witnesses or substitute its own judgment for that of the trier of fact, even if the evidence would support a different result. National Union Fire Insurance Company of Pittsburgh, Pennsylvania v. Soto, 819 S.W.2d 619, 620 (Tex. App.-El Paso 1991, writ denied). When reviewing a hearing officer's decision for factual sufficiency of the evidence, we should reverse such decision only if it is so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986).

The carrier also noted that Finding of Fact No. 4 incorrectly states that the claimant experienced pain in his right upper extremity. All the evidence in the record and Finding of Fact No. 5 refer to a left shoulder injury. Therefore, Finding of Fact No. 4 is reformed to read that the claimant experienced pain in his left upper extremity.

The decision and order of the hearing officer, as reformed, are affirmed.

The true corporate name of the insurance carrier is **BITUMINOUS CASUALTY CORPORATION** and the name and address of its registered agent for service of process is

GLENN CAMERON
222 WEST LAS COLINAS BOULEVARD, SUITE 1720
IRVING, TEXAS 75016-7968.

_____
Gary L. Kilgore
Appeals Judge

CONCUR:

_____
Daniel R. Barry
Appeals Judge

_____
Elaine M. Chaney
Appeals Judge